IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

WP(C).No. 34881 of 2007(C)

PETITIONER:

THOMAS DEVASSIA
S/O. THOMAS,KANJIRANTHANATTU HOUSE
KARIPPAI ROAD, KALAMASSERY NORTH,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.VIJAYAKUMAR

RESPONDENTS:

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1. DISTRICT COLLECTOR
ERNAKULAM.

2. REVENUE DIVISIONAL OFFICER
FORT KOCHI.

3. THE KALAMASSERY MUNICIPALITY
REP. BY THE SECRETARY, MUNICIPAL OFFICE,
KALAMASSERY.

4. RABIA,W/O. ASSAINAR,
THETTAYIL VEETTIL, 3/629,
KARIPPAI ROAD, KALAMASSERY.

5. NOORJAHAN,W/O. IBRAHIM,
THETTAYIL VEETTIL, 3/629,
KARIPPAI ROAD, KALAMASSERY.

BY G.P.SRI.K.J.MOHAMMED ANZER FOR R1 & R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Pius C. Kuriakose, J.

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W.P.(C) No. 34881 of 2007

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Dated this the 12th day of December, 2007

JUDGMENT

Adv. Sri. M.K. Aboobacker takes notice for the 3rd respondent Municipality.

2. Heard learned counsel for the petitioner and the learned counsel for the 3rd respondent Municipality.

3. On a perusal of the averments in the writ petition and prayers, it is very clear that the grievance of the petitioner is that no effective steps have been taken by the 3rd respondent Municipality to vacate the order of temporary injunction passed in O.S.No.828/2003 on the file of the Munsiff's Court, Ernakulam. There is also a question regarding identification of a pond, which, according to the petitioner, is a public one.

3. It is submitted that the petitioner has got himself impleaded as additional defendant in O.S.No.828/2003. It is always open to the petitioner to file counter affidavit before the Munsiff's Court and press for hearing of the injunction petition.

4. In the circumstances, I dispose of the writ petition directing the petitioner to resort to such a course. There will be a direction to the First Additional Munsiff, Ernakulam who is presently seizin of O.S.No.828/2003

to dispose of the application for temporary injunction in O.S.No.828/2003 at the earliest. It will be open to the petitioner to file necessary application before the court for compelling the Municipality to produce any relevant documents. If any such application is received, the learned Munsiff will pass appropriate orders at the earliest.

Pius C. Kuriakose,
Judge.

mn.